THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO.4249 OF 1999

DATED 24-01-2006

Between:

APSRTC rep. by its Depot Manager,

Banswada Bus Depot,

Nizamabad District.

....Petitioner

And

The Presiding Officer,

Labour Court – II, Chandra Vihar,

Hyderabad and another.

....Respondents

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ORDER:

The Andhra Pradesh State Road Transport Corporation filed this writ petition aggrieved by the Award passed by the Labour Court-II, Hyderabad in I.A.No.4249 of 1999 dated
17-02-1997, published in G.O.RT.No.128 dated 15-01-1998.

The second respondent herein was engaged as a daily wage driver in Bodhan Depot of the petitioner-Corporation w.e.f 27-01-1993 and worked as such at Bodhan and Banswada Depots. Subsequently, he was appointed as temporary

driver w.e.f 01-08-1994 and later his services were regularized. On the ground that the second respondent absented from duty unauthorisedly with effect from 06.11.1995 to 28-11-1995, disciplinary proceedings were initiated and based on the enquiry report, he was removed from service. The second respondent has questioned the said removal order by raising an industrial dispute in I.D.No.39 of 1996 under Section 2-A(2) of the Industrial Disputes Act 1947. Before the Tribunal, on behalf of the second respondent workman Exs.W-1 to W-12 were marked and on behalf of the petitioner-management, Exs.M-1 to M-14 were marked. The Tribunal, after appreciating the evidence on record, observed that the absence of petitioner was due to proper and justified cause. Further, the Tribunal, by recording a finding that the punishment of removal was disproportionate to the gravity of the charge, had ordered for reinstatement of the second respondent-workman with 50% of the backwages.

In this writ petition, the only submission made by the learned Standing Counsel for the petitioner-Corporation is that as per the APSRTC Service Regulations, the workman was to submit a medical certificate within a specified time. As the workman admittedly did not submit the certificate to the employer, the period of his absence was treated as unauthorized absence and based on the enquiry report, he was removed from service. In that view of the matter, the Tribunal below ought not to have interfered with the order of removal.

Merely because, the second respondent did not submit the medical certificate before the authority concerned as contemplated under the APSRTC Service Regulations, it cannot be said that there were no valid reasons for his unauthorized absence. Further, the petitioner – Corporation had not given any valid reasons for not accepting
the explanation offered by the second respondent and the medical certificate produced by him showing that he was sick during the period of his absence i.e., from
06-11-1995 to 28-11-1995. Though different charge sheets were issued to the second respondent, the order of removal was passed only on the ground of his unauthorized absence from 06-11-1995 to 28-11-1995.

It is stated that pursuant to the award of the Tribunal, the second respondent was reinstated into service and he is continuing in service. The Tribunal has

rightly exercised its discretion under Section 11-A of the Industrial Disputes Act by recording a finding that there was valid material in the explanation offered by the second respondent for his unauthorized absence for the period from 06-11-1995 to 28-11-1995, and, awarded 50% of the backwages.

In that view of the matter, I do not find any valid grounds to interfere with the order of the Tribunal.

The writ petition is devoid of merits and is accordingly dismissed. No costs.

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24-01-2006.

Lrkm.